

**SENATE AMENDMENT**

AMENDMENT NO. \_\_\_\_\_

Wells/Huth  
March 26, 2008

ADOPTED	TABLED	CARRIED OVER	FAILED	RECONSIDERED
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Clerk of the Senate

ADOPTION NO. \_\_\_\_\_

**BILL NO: S. 1220**

(Reference is to the original version.)

The Committee on Judiciary proposed the following amendment (JUD1220.002):

Amend the bill, as and if amended, by striking all after the enacting words and inserting the following:

/ SECTION 1. Section 11-11-410 of the 1976 Code is amended to read:

~~“Section 11-11-410. (A) State appropriations in any fiscal year may not exceed appropriations authorized by the spending limitation prescribed in this section. State appropriations subject to the spending limitation are those appropriations authorized annually in the State General Appropriation Act and acts supplemental thereto which fund general, school, and highway purposes. A statement of total ‘General, School, and Highway Revenues’ must be included in each annual General Appropriation Act. As used in this section the appropriations so limited as defined above must be those funded by ‘General, School, and Highway Revenues’ that must be defined as such in the 1985-86 General Appropriation Act; it being the intent of this section that all additional nonfederal and nonuser fee revenue items must be included in that category as they may be created by act of the General Assembly.~~

~~(B) The limitation on state appropriations prescribed in subsection (A) is an amount equal to either those state appropriations authorized by the spending limit for the previous fiscal year increased by the average percentage rate of growth in state personal income for the previous three completed calendar years or nine and one-half percent of the total personal income of the State for the calendar year ending before the fiscal year under consideration, whichever is greater. As used in this section, ‘state personal income’ means total personal income for a calendar year as determined by the Budget and Control Board or its successor based on the most recent data of the United States Department of Commerce or its successors. During the initial year this spending limit is in effect, the actual state appropriations for general, school, and highway purposes for the~~

fiscal year 1985-1986 must be used as the base figure for computation of the spending limitation if the average rate of growth method is used.

~~(C) The Comptroller General, or any other authorized agency, commission, or officer, may not approve or issue warrants which would allow disbursements above the amount appropriated for general fund purposes unless and until the General Assembly authorizes expenditures in excess of the limitation through procedures provided for in this article. This subsection may not apply to funds transferred from the reserve fund to the general fund.~~

~~(D) The Division of Research and Statistical Services of the Budget and Control Board shall annually compute and certify to the General Assembly a current figure to limit appropriations as provided in subsection (B) of this section prior to the Budget and Control Board's submission of its recommended budget to the House Ways and Means Committee.~~

~~(E) Notwithstanding the provisions of subsection (A) of this section, the General Assembly may declare a financial emergency and suspend the spending limitation for any one fiscal year for a specific amount by a special vote as provided in this subsection by enactment of legislation which relates only to that matter. The authorized state appropriations for the fiscal year following the suspension must be determined as if the suspension had not occurred and, for purposes of determining subsequent limits, must be presumed to have been the maximum limit which could have been authorized if such limitation had not been suspended.~~

~~The special vote referred to in this subsection means an affirmative vote in each branch of the General Assembly by two thirds of the members present and voting but not less than three fifths of the total membership in each branch.~~

As used in this section:

(1) 'Annual limit' means the total of general fund revenues that may be appropriated in the next state fiscal year. This annual limit is calculated by adjusting general fund revenues available for appropriation in the current fiscal year, including BSF transfers pursuant to subsection (C)(1) of this section by a percentage equal to the average annual percentage change in the total of general fund revenues over the preceding ten completed state fiscal years as calculated by the Board of Economic Advisors. For purposes of the annual limit, a legislated increase or decrease in general fund revenues as estimated by the BEA must be added to or subtracted from the then applicable annual limit.

(2) 'BEA' means the Board of Economic Advisors established pursuant to Article 9, Chapter 9, of Title 11, or any successor agency performing similar functions.

(3) 'Budget Stabilization Fund' or 'BSF' means a fund established in the State Treasury separate and distinct from the general fund of the State and all other funds to which must be credited automatically general fund revenues accruing in a fiscal

year in excess of the annual limit. Earnings on the BSF must be credited to it and balances in the BSF carry forward in it to succeeding fiscal years.

(4) 'Emergency' means:

(a) the existence of an operating deficit in the general fund of the State for a completed fiscal year after the exhaustion of the Capital Reserve Fund as made in a finding by the Budget and Control Board upon sequestering the Capital Reserve Fund;

(b) a catastrophic event outside the control of the General Assembly including, but not limited to, a natural disaster, severe weather event, act of God, or act of terrorism, fire, war, or riot;

(c) compliance with an order or decree entered by a court of competent jurisdiction; and

(d) compliance with a federal statute or regulation imposing a nonfunded mandate on this State.

(5) 'General fund revenues' means the revenues of state-imposed taxes and fees, earnings on investments, and miscellaneous revenues to the State accruing in the fiscal year to which the annual limit applies, all of which by law must be credited to the general fund of the State and used for the general operation of state government, but not including any amounts credited to the BSF. General fund revenues also include those revenues credited to the general fund of the State but which by law are required to be appropriated from the general fund of the State for a specific purpose or purposes. By way of illustration but not limitation, general fund revenues do not include revenues of taxes, user fees, other fees, or miscellaneous revenues required by law to be credited to funds in the State Treasury separate and distinct from the general fund of the State and which by law must be appropriated for some special use or uses, whether or not those uses include the general operation of state government. By way of illustration but not limitation, revenues credited to the following separate funds in the State Treasury are not general fund revenues:

(a) the General Reserve Fund and the Capital Reserve Fund established respectively pursuant to Section 36(A), and (B), Article III of the Constitution of this State and Sections 11-11-310 and 11-11-320;

(b) the State Highway Fund and the State Non-Federal Aid State Highway Fund established pursuant to Section 57-11-20;

(c) the Education Improvement Act of 1984 Fund established pursuant to Section 59-21-1010(B);

(d) the Trust Fund for Tax Relief established pursuant to Section 11-11-150(B);

(e) the Homestead Exemption Fund established pursuant to Section 11-11-155; and

(f) the State Institution Bonds and State Highway Bonds Debt Service Fund established pursuant to Section 11-11-340.

(6) 'OSB' means the Office of State Budget of the State Budget and Control Board, or a successor agency performing similar functions.

(B) Except as provided in subsection (D) of this section, the General Assembly may not appropriate general fund revenues for a fiscal year in an amount that totals more than the annual limit. The annual limit applies in all stages of the budget process, including the Governor's proposed budget, and this compliance must be certified by the OSB in an addendum to the Governor's proposed budget, the Ways and Means Committee's report on the annual general appropriations bill, the bill as it passes the House of Representatives, the Senate Finance Committee's report on the bill, the bill as it passes the Senate, and the report of a conference or free conference committee on the bill. The same certification must accompany any other bill or joint resolution appropriating general fund revenues.

(C)(1) When the BEA makes or adjusts a forecast of state revenues, that forecast or adjustment must include a forecast or adjustment of general fund revenues as defined pursuant to subsection (A)(5) of this section, not including a BSF transfer and the then applicable annual limit. If the forecast or adjustment of the general fund revenues is less than the annual limit, there is transferred for that fiscal year whatever BSF balance is available to offset as much of this projected shortfall as the balance permits, but in no case more than the amount necessary, that when added to the forecast, equals the annual limit. This transfer must be accomplished by a separate line item in the annual general appropriations bill.

(2) If revenues in the General Reserve Fund established pursuant to Section 36(A), Article III of the Constitution of this State and Section 11-11-310 are used to offset a year-end operating deficit, and a balance then exists in the BSF, then the Comptroller General shall transfer so much of the BSF balance as is available to the General Reserve Fund to replace revenues used from the General Reserve Fund. This transfer does not replace or supplant the minimum replenishment amount otherwise required to be made to the General Reserve Fund.

(3)(a) Cash balances in the BSF not exceeding fifteen percent of general fund revenues for the last completed fiscal year as certified by OSB may be appropriated by the General Assembly in separate legislation upon an affirmative recorded vote in the House of Representatives and the Senate by two-thirds of the members present and voting, but not less than three-fifths of the total membership of the House of Representatives and the Senate.

(b) Cash balances in the BSF in excess of fifteen percent of general fund revenues for the last completed fiscal year as certified by the OSB may be appropriated by the General Assembly for capital improvements, retirement of debt,

non-recurring tax rebates, and other nonrecurring purposes in separate legislation solely for that purpose receiving an affirmative majority vote in the House of Representatives and the Senate.

(D) If there is a finding of an emergency, the annual limit may be exceeded for a fiscal year and a concomitantly larger transfer made from the BSF to the general fund of the State for that fiscal year up to the amount by which the annual limit is exceeded. General fund revenue appropriations above the annual limit pursuant to a finding of an emergency are not included in the calculation of the annual limit. Transfers to the BSF for a fiscal year for which there is a finding of an emergency apply only to general fund revenues accruing in excess of the annual limit plus the amount by which the annual limit is exceeded. An emergency exists if the General Assembly makes a finding enacted as part of the annual general appropriations act or other act or joint resolution appropriating general fund revenues which:

- (1) specifies the emergency; and
- (2) which is adopted by an affirmative recorded vote in the House of Representatives and the Senate.

(E) In ~~any~~ a year when surplus funds general fund revenues are collected, ~~such revenue~~ this surplus may be appropriated by the General Assembly ~~to match funds for public education, public welfare, public health, road and highway construction, rehabilitation, replacement, or maintenance financed in part with federal participation funding or federal grants or tolls, or to accelerate the retirement of bonded indebtedness~~ in the manner, for the purposes, and at the times provided by law, or transferred to the general fund reserve, or tax relief or for avoiding the issuance of bonds for projects that are authorized but not issued or any combination of these purposes without regard to the spending limitation imposed by this section. For the purposes of this section, surplus funds general fund revenues mean that portion of such revenues, as defined in subsection (A)(5) of this section, ~~over and above revenues authorized for appropriation in subsection (B)~~ that are available for appropriation and have not been appropriated and that are not required to be credited to the BSF.”

SECTION 2. This act takes effect upon ratification of an amendment to Section 7(c), Article X of the Constitution of this State authorizing its terms and first applies for appropriations for the first state fiscal year beginning more than one year after that date, prior to which the unamended version of Section 11-11-410 of the 1976 Code continues to apply. /

Amend title to conform.